



**The Karnataka Scheduled Castes, Scheduled Tribes and Other Backward
Classes (Reservation of Appointment Etc.) Act, 1990**

Act 7 of 1991

Keyword(s):

Appointed Day, Appointing Authority, Establishments in Public Sector, Other
Backward Classes, Scheduled Castes, Scheduled Tribes, Service or Post, Unfilled
Vacancies

Amendments appended: 7 of 2004, 8 of 2004, 7 of 2012

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**THE KARNATAKA SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER
BACKWARD CLASSES (RESERVATION OF APPOINTMENT ETC) ACT, 1990.**

ARRANGEMENT OF SECTIONS

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STATEMENT OF OBJECTS AND REASONS

I

Act 7 of 1991.- The Persons belonging to Scheduled Castes/Scheduled Tribes and other Backward Classes of citizens are not adequately represented in the appointments or the posts in the State Civil Services etc., and in Educational Institutions established and maintained by the State Government.

The reservations in favour of Scheduled Caste/Scheduled Tribes is available in the Constitution. In Karnataka, reservations are made available to Scheduled Castes/ Scheduled Tribes at 15% and 3% respectively. The identification and classification of other Backward classes are considered necessary.

Therefore, the State Government appointed the Karnataka Backward Classes Commission from time to time to determine the Backward Classes citizens in the State for extending special concession under Article 15(4) and 16 (4) of the Constitution of India.

On the recommendations of the Commission, Government have classified the Backward Classes of citizens in the State for purposes of Article 15(4) and 16(4) of the

constitution of India, and accordingly issued various orders from time to time making necessary reservations in favour of Backward Classes.

Now, it is proposed to extend statutory support to all the orders issued in this behalf.

Hence this Bill.

(Obtained from L.A. Bill No. 25 of 1990)

II

Amending Act 27 of 1997.- Tahsildars have been issuing caste certificates and Caste and income Certificates. The Hon'ble High Court of Karnataka in Writ Petitions No.4360/97 Shahbaz Hussain Vs. State and others and W.P.No. 4808-81/97 Nandeeshha Vs. Tahasildar, has observed that the Karnataka Scheduled Castes/Scheduled Tribes and Other Backward classes (Reservation of Appointment etc.,) Act, 1990 does not contain any provision to empower the Tahasildar to issue "Caste Certificates" to Scheduled Castes and Scheduled Tribes people and "Caste-cum-income Certificates" to persons belonging to Other Backward Classes. Besides, the said Act does not contain any provisions for appeal against the decision of the Tahasildar. Therefore the High Court is of the view that Tahasildar is not competent to issue any such certificate.

In the absence of caste certificates or caste-cum-Income certificates, the students belonging to Scheduled Castes/Scheduled Tribes and Other Backward Classes are finding it extremely difficult to get selected on the basis of the reservation made for their categories in the various Educational Institutions.

Therefore, it is considered necessary to amend the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act,-

(i) to specify the authority competent to issue caste certificate and caste-cum-income certificate and the procedure to be followed for disposal of application for issue of such certificates.

(ii) to provide for appeal against the order of the authority competent to issue the certificates.

(iii) to provide for constitution of Verification Committee and for issue of validity certificates.

(iv) to provide for appeal against the order of Verification Committee.

Hence the Bill.

(Obtained from L.A. Bill No. 2 of 1997)

III

Amending Act 7 of 2004.- It is considered necessary to amend section 13 of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990 to provide for laying of rules made under this Act before both the Houses of the State Legislature.

Hence the Bill (Obtain from L.C.Bill No. 3 of 2004)

IV

Amending Act 8 of 2004.- Government issued a Notification dated: 21.11.2001 under the Karnataka Civil Services (Unfilled Vacancies reserved for the persons belonging to Scheduled Castes and Scheduled Tribes (Special Recruitment) Rules, 2001 for filling up of vacancies reserved for persons belonging to the Scheduled Castes and Scheduled Tribes. This Special Recruitment Rules was published under clause (a) of sub-section (2) of section 3 of the Karnataka Civil Services Act, 1978 (Karnataka Act 14 of 1990) in Notification No. DPAR 13 SBC 2001, dated 6th August 2001. The Notification was issued to fill all unfilled vacancies by all the appointing authorities wherever the service conditions are governed by the Karnataka Civil Services Act, 1978. The Cabinet appointed a sub-committee of the Cabinet to monitor and review the progress. The Social Welfare Department was made the nodal Department. As on date the Social Welfare Department has identified 17021 numbers of vacancies out of them, 14485 have already been notified, of which 11573 vacancies are filled up and the balance is in the process of being filled. During the course of the review meeting it was pointed out to the Cabinet Sub Committee that the Karnataka Civil Services (Unfilled Vacancies reserved for the persons belonging to Scheduled Castes and Scheduled Tribes(Special Recruitment) Rules, 2001 does not apply to the Universities, including Agriculture Universities and other institutions, etc., because they do not come under the purview of the said Rules. The non-inclusion of these institutions under the purview of the Notification dated 21.11.2001 and 1.6.2002 meant that the filling up of the backlog vacancies by the Universities and other institutions could suffer from a legal infirmity

In view of the fact that the process of recruitment by these institutions i.e., Universities etc. 80% of the recruitment are already over, both for teaching and non-teaching staff and the persons recruited have already reported and are working, there is an immediate need to amend the Act to legally enforce the recruitment's already made. To avoid any legal complications, it is provided that the provisions of the Second Amendment Act would not affect any appointment already made, on the ground that the procedure prescribed was not fully or partially followed in making such appointments.

Under Sub-rule (5) of rule 7 of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of appointments etc.) (Amendment) Rules, 2000 the Divisional commissioners have been now abolished and all their appellate or revisional powers have been conferred upon the Karnataka Appellate Tribunal by the Revenue Department vide its Notification No. RD 54 Samithi 2002, dated 20.1.2003. Subsequently the Karnataka Land Revenue Act, 1964 was amended by the Amendment Act 21 of 2003 and any appellate or revision power of the Divisional Commissioner under any other enactment or roles has been conferred on the State Government. Accordingly vide his letter appeal No. 127/03 and etc., dated 19.8.2003, the Registrar, Karnataka Appellate Tribunal Bangalore returned all such files stating that appropriate authority to hear such cases would be the Government. Therefore there is an urgent need to provide an appropriate authority, to act as an Appellate authority in place of the then Divisional Commissioners.

Considering the nature and volume of work it is felt necessary that the Heads of Departments looking after the welfare and related matters of the Scheduled Castes, Scheduled Tribes and Other Backward Classes who are very conversant with the issues

of the Scheduled Castes, Scheduled Tribes and Others Backward Classes be vested with the powers to act as a appellate authorities against the orders of the District Caste Verification Committee/District Caste and Income verification committee in place of the Divisional Commissioners.

In view of the above, it is considered necessary to amend the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990.

Hence the Bill.

(Obtained from LC Bill No. 4 of 2004.)

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KARNATAKA ACT No. 7 OF 1991

*(First published in the Karnataka Gazette Extraordinary dated
Seventh Day of March, 1991)*

**THE KARNATAKA SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER
BACKWARD CLASSES (RESERVATION OF APPOINTMENT ETC) ACT, 1990**

(Received the assent of the Governor on the 4th day of March, 1991)

(As amended by Act 27 of 1997, 7 of 2004 and 8 of 2004)

An Act to provide for the reservation of appointments or posts in favour of the members of the Scheduled Castes, Scheduled Tribes and other Backward Classes in the State Civil Services and establishments in the public sector and in admission to universities and to the educational institutions established or maintained or aided by the State Government.

WHEREAS the members of the Scheduled Castes, Scheduled Tribes and other Backward Classes of citizens are not adequately represented in the services or posts in the State Civil Services and establishments in public sector and among the students admitted to the universities and to educational institutions established or maintained or aided by the State Government;

AND whereas it is expedient to provide in favour of them such reservation;

BE it enacted by the Karnataka State Legislature in the Forty-first Year of the Republic of India as follows :-

1. Short title and commencement .- (1) This Act may be called the Karnataka Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation of Appointments, etc.,) Act, 1990.

(2) It shall come into force on such '[date]' as the State Government may, by notification, appoint.

1. Act came into force w.e.f. 1.6.1992 Vide notification No. SWL 217 SAD 90(p-1) dt. 19.5.1992

2. Definitions.- In this Act, unless the context otherwise requires ,-

(1) "appointed day" means the date notified under sub-section (2) of section 1;

(2) "appointing authority" in relation to a service or posts, means the authority empowered to make appointment to such service or post;

(3) "establishments in public sector" means,-

(i) a co-operative society registered or deemed to have been registered under the Karnataka Co-operative Societies Act, 1959;

(ii) an educational institution established or maintained or aided by the State Government;

(iii) a Government company within the meaning of section 617 of the Companies Act, 1956;

(iv) a local authority;

(v) a statutory body or corporation established by or under a State or Central Act owned or controlled by the State Government;

(vi) a university established or deemed to have been established by or under any law of the State Legislature;

(4) "other backward Classes" means the communities, castes and tribes notified by the State Government from time to time under Article 15(4) and Article 16 (4) of the Constitution;

(5) "Scheduled Castes" shall have reference to the Scheduled Castes specified in the Constitution (Scheduled Castes) Order, 1950 made under Article 341 of the Constitution of India and as amended from time to time;

(6) "Scheduled Tribes" shall have reference to the Scheduled Tribes specified in the Constitution (Scheduled Tribes) Order, 1950 made under Article 342 of the Constitution of India and as amended from time to time;

(7) "service or post" means a civil service of the State of Karnataka or a civil post under the State of Karnataka, and includes a service or post in the establishment in public sector;

¹[(8) "Unfilled vacancies" means and includes,-

(i) the backlog in direct recruitment as contemplated in the Government order No. DPAR 19 SBC 89 dated 12th July 1989 read with the subsequent Government Order of even number, dated 22nd July 1989 and sub-section (2) of section 4 in respect of a service or post in an establishment in public sector existing as on the date of commencement of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.) (Second Amendment) Act, 2004 (hereinafter referred to as the Second Amendment Act, 2004);

(ii) the vacancies to the extent they were not filled by the persons belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, as per the classification of the vacancies in accordance with the orders of reservation applicable to direct recruitment while regularising the services of the daily wage employees in an establishment in public sector in accordance with the Government Order issued in this behalf or any rule, statute, bye law, regulation or order etc. issued by any establishment in public sector, and existing as on the date of commencement of the Second Amendment Act, 2004; and

(iii) if even after taking into account the unfilled vacancies mentioned in clauses (i) and (ii) above, the percentage of representation of the persons belonging to the Scheduled Castes and the Scheduled tribes in any service or post in an establishment in public sector to which the order of reservation in direct recruitment under clause (4) of Article 16 of the Constitution are applicable, does not reach fifteen percent in respect of the persons belonging to the Scheduled Castes and three percent in respect of the persons belonging to the Scheduled tribes, as the case may be, of direct recruitment vacancies, then such shortfall of unfilled direct recruitment vacancies existing as on the date of commencement of the Second Amendment Act, 2004.]¹

1. Inserted by Act 8 of 2004 w.e.f. 23.2.2004

3. Applicability.- Nothing in this Act, shall apply to , -

- (a) posts meant for conducting or guiding or directing research;
- (b) posts classified as scientific posts;
- (c) tenure posts;
- (d) posts filled up on the basis of any contract;
- (e) ex-cadre posts;
- (f) posts which are filled up by transfer or deputation;

(g) posts in respect of which recruitment is made in accordance with any provision contained in the Constitution; and

(h) such other posts as the State Government may, from time to time, by order, specify:

Provided that every order made under clause (h) shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions.

4. Reservation of appointments or posts etc.- (1) After the appointed day, while making appointments to any office in a civil service of the State of Karnataka or to a civil post under the State of Karnataka, appointments or posts shall be reserved for the members of the Scheduled Castes, Scheduled Tribes and other Backward Classes to such extent and in such manner as may be specified from time to time in the order made by the Government under clause (4) of Article 16 of the Constitution of India.

¹[(1A) Notwithstanding anything contained in any law for the time being in force, the appointing authority shall identify unfilled vacancies reserved for the persons belonging to Scheduled Castes and Scheduled Tribes in any service or post in an establishment in public sector as existing on the date of commencement of the Second Amendment Act, 2004 and take action to fill them as a one time measure within a specified time. The manner in which the number of vacancies is to be computed, the procedure for filling such vacancies and the time within which action is to be taken shall be as specified by notification by the State Government:

Provided that the provisions of this sub-section shall not apply to any unfilled vacancy in Karnataka State Civil Services or post in respect of which provisions have been already made:

Provided further that where the appointing authorities covered under this sub-section have already filled all or part of the unfilled vacancies before the date of coming into force of the Second Amendment Act, 2004 by making appointment of persons belonging to the Scheduled Castes and the Scheduled Tribes, then such appointments shall not be affected]¹

1. Inserted by Act 8 of 2004 w.e.f. 23.2.2004

(2) The provisions of the said order made under clause (4) of Article 16 of the Constitution shall be deemed to be an order made under this Act and shall *mutatis mutandis* apply to a service or post in an establishment in public sector.

(3) Subject to such rules as may be prescribed, while making admissions, after the appointed day, to a course of study in a university established or deemed to be established by or under any law of the State Legislature or an educational institution established or maintained or aided by the State Government, there shall be made reservation for the persons belonging to the Scheduled Castes, the Scheduled Tribes and other Backward Classes to such extent and in such manner as may be prescribed.

(4) All appointments made in contravention of the provisions of this section shall be voidable.

¹[4A. Issue of caste certificate and income and caste certificate.- (1) Any candidate or his parent or guardian belonging to the Scheduled Castes or the Scheduled Tribes may, in order to claim benefit of reservation under section 4, either for

appointment to any service or post or for admission to a course of study in a university or any educational institution, make an application to the Tahasildar in such form and in such manner as may be prescribed for issue of a caste certificate.

(2) Any candidate or his parent or guardian belonging to other Backward Classes may, in order to claim benefit of reservation under section 4 either for appointment to any service or post or for admission to a course of study in a university or any educational Institution, make an application to the Tahasildar in such form and in such manner as may be prescribed for issue of an income and caste certificate.

(3) The Tahasildar may, on receipt of an application under sub-section (1) or (2), and after holding such enquiry as he deems fit and satisfying himself regarding the genuineness of the claim made by applicant pass an order issuing a caste certificate or, as the case may be, an income and caste certificate in such form as may be prescribed, or rejecting the application.

(4) The Tahasildar shall follow such procedure as may be prescribed before passing the order under sub-section (3).

(5) The burden of proving that the candidate or his parent or guardian belongs to Scheduled Castes, Scheduled Tribes or other Backward Classes shall be on the applicant]¹

1. Inserted by Act 27 of 1997 w.e.f. 8.2.2000

¹[4B. Appeal against order under section 4A.- (1) Any person aggrieved by an order of the Tahasildar under section 4A may, within thirty days from the date of receipt of the order prefer an appeal to Assistant Commissioner of the revenue sub-division.

(2) The Assistant Commissioner of the revenue sub-division may after giving both parties an opportunity of being heard pass orders allowing or dismissing the appeal and in appropriate cases directing issue of a caste certificate or as the case may be, an income and caste certificate to the applicant]¹

1. Inserted by Act 27 of 1997 w.e.f. 8.2.2000

¹[4C. Verification of Caste Certificate and Income and Caste Certificate.- (1) The State Government shall constitute one or more Verification Committees for each district consisting of such person or persons as may be prescribed for verification of caste certificate and income and caste certificate issued under section 4A or section 4B.

(2) Any person who has obtained a caste certificate or an income and caste certificate under section 4A or 4B or the appointing authority or any authority making admission to a course of study in the university or any educational institution may make an application to the Verification Committee in such form and in such manner as may be prescribed for issue of a validity certificate.

(3) The Verification Committee may after holding such enquiry as it deems fit within thirty days from the date of the application either grant a validity certificate in a prescribed form or reject the application]¹

1. Inserted by Act 27 of 1997 w.e.f.d 8.2.2000

¹[4D. Appeal.- (1) Any person aggrieved by an order passed by the Verification Committee under section 4C may, within thirty days from the date of receipt of the order appeal,-

- (i) to the Commissioner / Director, Social Welfare in case the verification certificate relates to a person belonging to the Scheduled Castes;
- (ii) to the Director, Tribal Welfare in case the verification certificate relates to a person belonging to the Scheduled Tribes;
- (iii) to the Director, Backward classes Department, in case the verification certificate relates to a person belonging to other Backward Classes;

in such form and in such manner and on payment of such fee as may be prescribed.

(2) The Appellate Authority shall after giving to both the parties an opportunity of being heard pass such order in appeal as it deems fit.

(3) Any appeal under this section pending before the Divisional Commissioner or any other officer or other authority on the date of commencement of the Second Amendment Act, 2004 shall stand transferred to the respective Appellate Authorities referred to in sub-section (1) and they shall dispose them off as if they were filed before them]¹

1. Substituted by Act 8 of 2004 w.e.f. 23.2.2004

5. Penalty.- If any appointing authority makes an appointment or any authority making admission to course of study in a university or any educational institution makes admission in contravention of the provisions of this Act or rules made thereunder, he shall be punishable with fine which may extend upto rupees one thousand and imprisonment not exceeding six months:

Provided that nothing contained in this section shall apply in relation to appointment to any service or post of which the appointing authority is the Governor.

6. Cognizance of offences.- No prosecution for an offence under this Act shall be instituted except by, or with the sanction of the State Government.

7. Maintenance of records and submission of annual report, etc.- (1) Every appointing authority and every authority making admissions to a course of study in a university or an educational institution having an establishment in public sector shall maintain such records and shall furnish to the State Government an annual report in such form and in such manner, as may be prescribed.

(2) Any officer authorised by the State Government in this behalf may inspect the records of an authority which is required to maintain under sub-section (1) for the purpose of ensuring proper implementation of the provisions of this Act and rules made thereunder.

(3) It shall be the duty of the concerned appointing authority or the authority making admissions to the university or educational institution to produce such records and documents, furnish such information and afford all such assistance and facilities as may be necessary for the aforesaid purpose.

8. Constitution of Standing Committee .- There shall be a standing committee consisting of the following members, namely:-

- (a) Minister of Social Welfare,
Government of Karnataka

Chairman

- | | |
|--|------------------|
| (b) (i) Four members of the Karnataka Legislative Assembly to be nominated by the Speaker out of whom, one shall be from the Scheduled Caste and one shall be from the Scheduled Tribe and one shall be from the Backward Classes; | Members |
| (ii) Two members of the Karnataka Legislative Council to be nominated by the Chairman | Members |
| (c) Chief Secretary to the Government of Karnataka | Member |
| (d) Secretary to Government, Home Department, Government of Karnataka | Member |
| (e) Secretary to Government, Social Welfare & Labour Department, Government of Karnataka | Member-Secretary |

Provided that on issue of a proclamation under Article 356 of the Constitution of India, the composition of the Committee may be altered by the State Government to such extent as it deems fit.

9. Functions of the Standing Committee .- The Standing Committee shall perform the following functions, namely :-

(a) review of the implementation of the provisions of this Act and the rules made thereunder as far as possible twice a year;

(b) suggest measures for the removal of difficulties in such implementation or for the improvement thereof; and

(c) such other functions as the State Government may, from time to time, assign to the Committee.

10. Annual report .- The State Government shall prepare an annual report on the working of this Act and lay the same before each House of the Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions.

11. Protection of action taken in good faith .- No suit, prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done under this Act.

12. Removal of difficulties .- If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders not inconsistent with the provisions of this Act, as the State Government may consider necessary for removing the difficulty.

13. Power to make rules .- (1) The State Government may make rules for carrying out the purposes of this Act.

(2) Until such rules are made under sub-section (1) any executive order made by the State Government relating to such reservation shall be deemed to be rules made under this Act.

¹[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before expiry of the session in which it is so laid or the session immediately following the session or successive sessions aforesaid both Houses agree in making any modifications in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule]¹

1. Inserted by Act 7 of 2004 w.e.f.

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(The above translation of the, ಕರ್ನಾಟಕ ಅನುಸೂಚಿತ ಜಾತಿಗಳು ಅನುಸೂಚಿತ ಬುಡಕಟ್ಟುಗಳು ಮತ್ತು ಇತರ ಹಿಂದುಳಿದ ವರ್ಗಗಳ (ನೇಮಕಾತಿ ಮುಂತಾದವುಗಳ ಮೀಸಲಾತಿ) ಅಧಿನಿಯಮ, 1990 (1991 ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ 7) was published in the official Gazette (Extraordinary) Part IV-2B, dated 29.6.1991 as no. 479 at page 1-8) under clause (3) of Article 348 of the Constitution of India.)

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NOTIFICATION

I

Bangalore dated 19th May 1992 [No. SWL 217 SAD 90 (P-I)]

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation of appointments etc.,) Act, 1990 (Karnataka Act 7 of 1991) the Government of Karnataka hereby appoints the first day of June 1992 as the date on which the said Act shall come into force.

By order and in the name of the Governor of Karnataka,

MUNIPOTHALAIHAH.

Under Secretary to Government,
Social Welfare & Labour Department.

II

Bangalore dated 8th February, 2000 [No.132 SAD 97 (1)]

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.) (Amendment) Act, 1997 (Karnataka Act 27 of 1997), the Government of Karnataka hereby appoints the Eighth day of February 2000 as the date on which all the provisions of the said Act shall come into force.

By Order and in the name of the Governor of Karnataka

(E. KRISHNA MURTHY)
Deputy Secretary to Government
Social Welfare Department

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KARNATAKA ACT NO. 7 OF 2004
THE KARNATAKA SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER
BACKWARD CLASSES (RESERVATION OF APPOINTMENT ETC.,)
(AMENDMENT) ACT, 2004

Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of section 13

STATEMENT OF OBJECTS AND REASONS

It is considered necessary to amend section 13 of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990 to provide for laying of rules made under this Act before both the Houses of the State Legislature.

Hence the Bill.

(LC Bill No.3 of 2004)

(Article 15(4) and 16(4) and Entry 23 of List II of the Seventh Schedule to the Constitution of India)

KARNATAKA ACT NO.7 OF 2004

(First published in the Karnataka Gazette Extraordinary on the twenty third day of February, 2004)

**THE KARNATAKA SCHEDULED CASTES, SCHEDULED TRIBES
AND OTHER BACKWARD CLASSES (RESERVATION OF APPOINTMENT ETC.,)
(AMENDMENT) ACT, 2004**

(Received the assent of the Governor on twenty second day of February, 2004)

An Act further to amend the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990

Whereas it is expedient further to amend the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990 (Karnataka Act 7 of 1991) for the purposes herein after appearing;

Be it enacted by the Karnataka State Legislature in the fifty fifth year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) (Amendment) Act, 2004.

(2) It shall come into force on such date as the State Government may by notification appoint.

2. Amendment of section 13.- In section 13 of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990, after sub-section (2), the following shall be inserted, namely:-

"(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before expiry of the session in which it is so laid or the session immediately following the session or successive sessions aforesaid both Houses agree in making any modifications in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

The above translation of ಕರ್ನಾಟಕ ಅನುಸೂಚಿತ ಜಾತಿಗಳು, ಅನುಸೂಚಿತ ಬುಡಕಟ್ಟುಗಳು ಮತ್ತು ಇತರ ಹಿಂದುಳಿದ ವರ್ಗಗಳ (ನೇಮಕಾತಿ ಮುಂತಾದವುಗಳ ಮೀಸಲಾತಿ) (ತಿದ್ದುಪಡಿ) ಅಧಿನಿಯಮ, 2004 (2004 ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ 7) be published in the Official Gazette under clause (3) of Article 348 of the Constitution of India.

T.N. Chaturvedi
Governor of Karnataka

By order and in the name of the Governor of Karnataka,

M.R. Hegde
Secretary to Government,
Department of Parliamentary Affairs and Legislation.

KARNATAKA ACT NO.8 OF 2004
THE KARNATAKA SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER
BACKWARD CLASSES (RESERVATION OF APPOINTMENT ETC.,)
(SECOND AMENDMENT) ACT, 2004

Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 4
4. Substitution of section 4D

STATEMENT OF OBJECTS AND REASONS

Government issued a Notification dated: 21.11.2001 under the Karnataka Civil Services (Unfilled Vacancies reserved for the persons belonging to Scheduled Castes and Scheduled Tribes (Special Recruitment) Rules, 2001 for filling up of vacancies reserved for persons belonging to the Scheduled Castes and Scheduled Tribes. This Special Recruitment Rules was published under clause (a) of sub-section (2) of section 3 of the Karnataka Civil Services Act, 1978 (Karnataka Act 14 of 1990) in Notification No. DPAR 13 SBC 2001, dated: 6th August 2001. The Notification was issued to fill all unfilled vacancies by all the appointing authorities, wherever the service conditions are governed by the Karnataka Civil Services Act, 1978. The Cabinet appointed a sub-committee of the Cabinet to monitor and review the progress. The Social Welfare Department was made the nodal Department. As on date the Social Welfare Department has identified 17021 numbers of vacancies out of them, 14485 have already been notified, of which 11573 vacancies are filled up and the balance is in the process of being filled. During the course of the review meeting it was pointed out to the Cabinet Sub Committee that the Karnataka Civil Services (Unfilled Vacancies reserved for the persons belonging to Scheduled Castes and Scheduled Tribes (Special Recruitment) Rules, 2001 does not apply to the Universities, including Agriculture Universities and other institutions, etc., because they do not come under the purview of the said Rules. The non-inclusion of these institutions under the purview of the Notification dated: 21.11.2001 and 1.6.2002 meant that the filling up of the backlog vacancies by the Universities and other institutions could suffer from a legal infirmity.

In view of the fact that the process of recruitment by these institutions i.e., Universities etc. 80% of the recruitment are already over, both for teaching and non-teaching staff and the persons recruited have already reported and are working, there is an immediate need to amend the Act to legally enforce the recruitment's already made. To avoid any legal complications, it is provided that the provisions of the Second Amendment Act would not affect any appointment already made, on the ground that the procedure prescribed was not fully or partially followed in making such appointments.

Under sub-rule (5) of rule 7 of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of appointments etc.,) (Amendment) Rules, 2000 the Divisional Commissioners were the appellate authorities for all cases pertaining to verification

and determination of castes for Scheduled Castes, Scheduled Tribes and other Backward Classes. The posts of Divisional Commissioners have been now abolished and all their appellate or revisional powers have been conferred upon the Karnataka Appellate Tribunal by the Revenue Department vide its Notification No. RD 54 Samithi 2002, dated 20.1.2003. Subsequently the Karnataka Land Revenue Act, 1964 was amended by the Amendment Act 21 of 2003 and any appellate or revision power of the Divisional Commissioner under any other enactment or rules has been conferred on the State Government. Accordingly vide his letter appeal No.127/03 and etc., dated 19.08.2003, the Registrar, Karnataka Appellate Tribunal Bangalore returned all such files stating that appropriate authority to hear such cases would be the Government. Therefore there is an urgent need to provide an appropriate authority, to act as an Appellate authority in place of the then Divisional Commissioners.

Considering the nature and volume of work it is felt necessary that the Heads of Departments looking after the welfare and related matters of the Scheduled Castes, Scheduled Tribes and Other Backward Classes who are very conversant with the issues of the Scheduled Castes, Scheduled Tribes and Other Backward Classes be vested with the powers to act as appellate authorities against the orders of the District Caste Verification Committee / District Caste and Income Verification Committee in place of the Divisional Commissioners.

In view of the above, it is considered necessary to amend the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990.

Hence the Bill.

(LC Bill No.4 of 2004)

(Article 15(4) and 16(4) and Entry 23 of List II of the Seventh Schedule to the Constitution of India)

KARNATAKA ACT NO. 8 OF 2004

(First published in the Karnataka Gazette Extraordinary on the twenty third day of February, 2004)

**THE KARNATAKA SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER
BACKWARD CLASSES (RESERVATION OF APPOINTMENT ETC.,)
(SECOND AMENDMENT) ACT, 2004**

(Received the assent of the Governor on twenty second day of February, 2004)

An Act further to amend the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990

Whereas it is expedient further to amend the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990 (Karnataka Act 7 of 1991) for the purposes herein after appearing;

Be it enacted by the Karnataka State Legislature in the fifty fifth year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation of Appointment etc.,) (Second Amendment) Act, 2004.

(2) It shall come into force at once.

2. Amendment of section 2.- In section 2 of the Karnataka Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation of Appointment etc.,) Act, 1990 (Karnataka Act 7 of 1991) (hereinafter referred to as the principal Act), after clause (7), the following shall be inserted, namely:-

"(8) "Unfilled vacancies" means and includes,-

(i) the backlog in direct recruitment as contemplated in the Government order No. DPAR 19 SBC 89 dated 12th July 1989 read with the subsequent Government Order of even number, dated 22nd July 1989 and sub-section (2) of section 4 in respect of a service or post in an establishment in public sector existing as on the date of commencement of the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) (Second Amendment) Act, 2004 (hereinafter referred to as the Second Amendment Act, 2004);

(ii) the vacancies to the extent they were not filled by the persons belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, as per the classification of the vacancies in accordance with the orders of reservation applicable to direct recruitment while regularising the services of the daily wage employees in an establishment in public sector in accordance with the Government Order issued in this behalf or any rule, statute, bye law, regulation or order etc. issued by any establishment in public sector, and existing as on the date of commencement of the Second Amendment Act, 2004; and

(iii) if even after taking into account the unfilled vacancies mentioned in clauses (i) and (ii) above, the percentage of representation of the persons belonging to the Scheduled Castes and the Scheduled tribes in any service or post in an establishment in public sector to which the order of reservation in direct recruitment under clause (4) of Article 16 of the Constitution are applicable, does not reach fifteen percent in respect of the persons belonging to the Scheduled Castes and three percent in respect of the persons belonging to the Scheduled tribes, as the case may be, of direct recruitment vacancies, then such shortfall of unfilled direct recruitment vacancies existing as on the date of commencement of the Second Amendment Act, 2004."

3. Amendment of section 4.- In section 4 of the principal Act, after sub-section (1) the following shall be inserted, namely:-

"(1A) Notwithstanding anything contained in any law for the time being in force, the appointing authority shall identify unfilled vacancies reserved for the persons belonging to Scheduled Castes and Scheduled Tribes in any service or post in an establishment in public sector as existing on the date of commencement of the Second Amendment Act, 2004 and take action to fill them as a one time measure within a specified time. The manner in which the number of vacancies is to be computed, the procedure for filling such vacancies and the time within which action is to be taken shall be as specified by notification by the State Government:

Provided that the provisions of this sub-section shall not apply to any unfilled vacancy in Karnataka State Civil Services or post in respect of which provisions have been already made:

Provided further that where the appointing authorities covered under this sub-section have already filled all or part of the unfilled vacancies before the date of coming into force of the Second Amendment Act, 2004 by making appointment of persons belonging to the Scheduled Castes and the Scheduled Tribes, then such appointments shall not be affected.

4. Substitution of section 4D.- For section 4D of the principal Act, the following section shall be substituted, namely:-

"4D. Appeal.- (1) Any person aggrieved by an order passed by the Verification Committee under section 4C may, within thirty days from the date of receipt of the order appeal,-

- (i) to the Commissioner / Director, Social Welfare in case the verification certificate relates to a person belonging to the Scheduled Castes;
- (ii) to the Director, Tribal Welfare in case the verification certificate relates to a person belonging to the Scheduled Tribes;
- (iii) to the Director, Backward classes Department, in case the verification certificate relates to a person belonging to other Backward Classes;

in such form and in such manner and on payment of such fee as may be prescribed.

(2) The Appellate Authority shall after giving to both the parties an opportunity of being heard pass such order in appeal as it deems fit.

(3) Any appeal under this section pending before the Divisional Commissioner or any other officer or other authority on the date of commencement of the Second Amendment Act, 2004 shall stand transferred to the respective Appellate Authorities referred to in sub-section (1) and they shall dispose them off as if they were filed before them."

The above translation of ಕರ್ನಾಟಕ ಅನುಸೂಚಿತ ಜಾತಿಗಳು, ಅನುಸೂಚಿತ ಬುಡಕಟ್ಟುಗಳು ಮತ್ತು ಇತರ ಹಿಂದುಳಿದ ವರ್ಗಗಳ (ನೇಮಕಾತಿ ಮುಂತಾದವುಗಳ ಮೀಸಲಾತಿ) (ಎರಡನೇ ತಿದ್ದುಪಡಿ) ಅಧಿನಿಯಮ, 2004 (2004 ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ 8) be published in the Official Gazette under clause (3) of Article 348 of the Constitution of India.

T. N. CHATURVEDI
GOVERNOR OF KARNATAKA

By Order and in the name of the Governor of Karnataka

M.R.HEGDE
Secretary to Government,
Department of Parliamentary Affairs and Legislation.

KARNATAKA ACT NO. 7 OF 2012

THE KARNATAKA SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER BACKWARD CLASSES (RESERVATION OF APPOINTMENT ETC.,) (AMENDMENT) ACT, 2011

Arrangement of Sections

Sections:

1. Short title and commencement
2. Insertion of sections 4E and 4F
3. Insertion of sections 5A and 5B
4. Insertion of section 6A, 6B, 6C, 6D and 6E

STATEMENT OF OBJECTS AND REASONS

Amending Act 7 of 2012.- The Karnataka Scheduled Castes Scheduled Tribes and other Backward Classes (Reservation of Appointment etc.,) Act, 1990 was enacted to provide for reservation of appointment or posts in favour of the members of the Schedule Castes, Scheduled Tribes and other Backward Classes in the State Civil Services and establishments in public sector and for admission to the Universities and Educational Institutions established or maintained or aided by the State Government with a view to ensure adequate representation to them. It has come to the notice of the Government that there are many cases of obtaining false Caste and Income and Caste Certificates with the connivance of the issuing authorities and there by depriving benefit of reservation available to the members of the Scheduled Castes, Scheduled Tribes and other Backward Classes.

Therefore, it is considered necessary to amend the said Act to provide for;-

- (i) conferment of certain powers of the Civil Court on the Verification Committee and the Tahsildar;
- (ii) penalties for obtaining false Caste Certificate or Income and Caste Certificate and also for issuing such certificates;
- (iii) summary trial of offences;
- (iv) barring the jurisdiction of civil court;
- (v) cancellation of a degree acquired by a person who had secured admission to an educational institution on the basis of a false caste certificate or Income and Caste Certificate.

Certain other consequential provisions are also made

Hence the Bill.

[L.A. Bill No.42 of 2011, File No.Samvyashae 54 Shasana 2011]

[Entry 41 of List II and entries 23 and 25 of List III of the Seventh schedule to the constitution of India.]

KARNATAKA ACT NO. 7 OF 2012

(First published in the Karnataka Gazette Extra-ordinary on the fourth day of January, 2012)

THE KARNATAKA SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER BACKWARD CLASSES (RESERVATION OF APPOINTMENT ETC.,) (AMENDMENT) ACT, 2011

(Received the assent of the Governor on the second day of January, 2012)

An Act further to amend the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990.

Whereas it is expedient further to amend the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990 (Karnataka Act 7 of 1991) for the purposes hereinafter appearing.

Be it enacted by the Karnataka State Legislature in the Sixty Second year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) (Amendment) Act, 2011.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Insertion of sections 4E and 4F.- In the Karnataka Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation of Appointment etc.,) Act, 1990 (Karnataka Act 7 of 1991) (hereinafter referred as the principal Act) after section 4D, the following shall be inserted, namely:-

“4E Tahasildar and the Verification Committee to exercise the powers of the Civil Court.- Tahasildar and the Verification Committee, while holding enquiry under this Act, shall have all the powers of a Civil Court while trying a suit under Code of Civil Procedure, 1908 (Central Act No. 5 of 1908) and in particular in respect of following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on Oath;
- (b) discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any Court or office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) any other matter which may be prescribed;

4F. Revision by Deputy Commissioner.- (1) The Deputy Commissioner may at any time either suomoto or on an application made to him with in the prescribed period, call for and examine the records relating to any decision made or order passed by the Tahasildar under section 4A or the Assistant Commissioner under section 4B, for the purposes of satisfying himself as to the legality, propriety of such decision or order and if, in any case, it appears to the Deputy Commissioner that any such decision or order shall be modified, annulled, revised or remitted for reconsideration, he may pass orders within thirty days accordingly;

provided that the Deputy Commissioner shall not pass any order prejudicial to any person unless such person is given an opportunity of being heard.

(2) The Deputy Commissioner may, stay the execution of any such decision or order pending the exercise of his powers under sub-section (1) in respect thereof.”

3. Insertion of sections 5A and 5B.- After section 5 of the principal Act, the following shall be inserted, namely:-

“5A Penalties for obtaining false Caste Certificate or Income and Caste Certificate.-

Whoever has obtained a Caste Certificate or Income and Caste Certificate by;-

- (a) furnishing false information; or
- (b) filing a false statement; or
- (c) any other fraudulent means.

shall on conviction be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years and with fine which shall not be less than one thousand rupees but which may extend upto five thousand rupees:

Provided that the Court may, for adequate and special reasons to be recorded, impose a sentence of imprisonment for a lesser term or lesser fine.

5B. Penalty for issuing a false Caste Certificate or Income and Caste Certificate.- If the Tahasildar intentionally issues a false Caste Certificate or Income and Caste Certificate, he shall on conviction, be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees:

provided that the Court may, for adequate and special reasons to be recorded, impose a sentence of imprisonment for a lesser term or lesser fine.”

4. Insertion of section 6A, 6B, 6C,6D and 6E.- After section 6 of the principal Act, the following shall be inserted, namely:-

“6A. Penalty for abettors.- Whoever abets any offence punishable under this Act, shall be punished with the penalty provided for in this Act for such offence.

6B. Bar of jurisdiction of Civil Court.- No Civil Court shall have jurisdiction in respect of any order passed by any officer or authority under this Act and no stay or injunction shall be granted by a court in respect of any action taken or to be taken by such officer or authority under this Act in pursuance of any power conferred by or under this Act.

6C. Cancellation of Degree etc.- Notwithstanding anything contained in any other law for time being in force any Degree, diploma or any other educational qualifications acquired by a person after securing admission in any educational institution on the basis of a false caste certificate or as the case may be, a false income and caste certificate, shall stand withdrawn, on cancellation of caste certificate, or as the case may be income and caste certificate obtained by him.

6D. Act to override other laws.- The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time-being in force.

6E. Act to override the applicability of decided specific cases in any of the courts.- The provisions of this Act shall have effect, notwithstanding anything contained in any of the decided cases by any of the courts. ”

The above translation of ಕರ್ನಾಟಕ ಅನುಸೂಚಿತ ಜಾತಿಗಳು, ಅನುಸೂಚಿತ ಬುಡಕಟ್ಟುಗಳು ಮತ್ತು ಇತರ ಹಿಂದುಳಿದ ವರ್ಗಗಳ (ನೇಮಕಾತಿ ಮುಂತಾದವುಗಳ ಮೀಸಲಾತಿ) (ತಿದ್ದುಪಡಿ) ಅಧಿನಿಯಮ, 2011 (2012ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ: 7) be published in the Official Gazette under clause (3) of Article 348 of the Constitution of India.

H.R.BHARDWAJ
GOVERNOR OF KARNATAKA

By Order and in the name of the Governor of Karnataka,

G.K. BOREGOWDA
Secretary to Government,
Department of Parliamentary Affairs and Legislation